IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.907 OF 2005
IN
WRIT PETITION NO.274 OF 2005

Smt.Vinaya Phansalkar — Appellant
vs.
M/s.Tata Memorial Hospital. — Respondent

Ms.Shobhana Gopal for the appellant.

Mr.S.K.Talsania with Mr.S.U.Uttam i/b.M/s.Mulla & Mulla
for the respondent.

CORAM : R.M. LODHA &
D.G. KARNIK, JJ.

DATED : 15th December 2005

P.C.

Heard.

2. Twofold contention was raised by the learned counsel for the appellant. First, she contended that the Labour Court erred in holding that the reference was not maintainable for want of jurisdiction. Secondly, her contention is that for want of appearance of the appellant before the Labour court on 6.5.2004, the reference could not have been dismissed in default by the Labour Court. In her support, she placed reliance upon the judgment of the Supreme Court in the case of Agra Electric Supply Company,Ltd. v. Labour Court, Meerut, **1970(Vo.I) LLJ page 1**.

3. None of the contentions has any merit. In so far as the first contention is concerned, the learned counsel for the respondents submitted that the objection raised by the appellant about reference being not maintainable for want of jurisdiction be treated as waived. Nothing remains to be decided in respect of the first contention in the light of the stand of the respondents before us.

4. As regards the second contention, it is pertinent to notice that the reference was forwarded to the concerned Labour Court for adjudicating the dispute between the parties way back in the year 1995. The present appellant did file her statement of claim. Thereafter the matter was adjourned from time to time. For all these adjournments the fault may not lie with the appellant but the fact remains that for a period of about 8 to 9 years despite opportunity to the appellant, no evidence was led by her in support of her case that her termination from service was illegal and amounted to victimisation. If, for such a long time, the appellant did not lead any evidence in support of her case, obviously, the labour Court could not be expected to wait indefinitely until the parties lead evidence and then decide the matter on merits. This is a case where not an iota of evidence was led by the appellant in support of her case and in this view of the matter, the

judgment of the Supreme Court in the case of Agra Electric Supply Company Ltd. cannot be applied.

5. The appeal does not deserve to be admitted.

6. Dismissed in limine.

(R.M.LODHA, J.)

(D. G. KARNIK, J.)